

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5937 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgement?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO
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NB BRAHAMBHATT

Versus

G S R T C

Appearance:

MR YN OZA for Petitioners
MR HARDIK C RAWAL for Respondent No. 1
NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 11/04/2000

ORAL JUDGEMENT

This petition is filed by the petitioners for an appropriate writ, direction or order, quashing and setting aside the appointment of respondents Nos. 2 to 9 as per Annexure 'C' and by directing the Gujarat State

Road Transport Corporation ('Corporation', for short) respondent No.1 herein, to make appointment of all the candidates on the basis of merit list prepared by considering the marks obtained in the written test as well as practical test as per advertisement Annexure 'A' and merit list Annexure 'B'.

The case of the petitioners was that they are working as Depot Managers at the places mentioned in the cause title of the petition. They are in the service of the Corporation since many years. They are all Class II Officers, seeking further promotion. According to the petitioners, the Corporation issued an advertisement, inviting applications for being recruited to the post of Divisional Works Superintendent, which is Upper Class II post. The selection was to be made by direct selection and departmental employees working in lower cadre such as the petitioners were also permitted to compete in the said examination. It was asserted by the petitioners that all of them were eligible to appear at the examination as they fulfilled all conditions laid down in the advertisement. Accordingly, they also applied for the post in question and written test was conducted on October 9, 1988. All of them have successfully gone through the written test and they were called for practical test on October 16, 1988. It was the case of the petitioners that all of them have successfully cleared even practical test. Thereafter, merit list of 29 candidates was prepared showing the aggregate marks obtained at the written test as well as practical test.

It was the allegation of the petitioners that they were shocked and surprised when a selection list was prepared and appointments were sought to be made of respondents Nos. 2 to 9, ignoring the legitimate claims of the petitioners. According to the petitioners, on the basis of aggregate marks, the petitioners ought to have been appointed as they were more meritorious than respondents Nos. 2 to 9. Though representations were made, the authorities did not do anything and hence, they were constrained to approach this Court by filing this petition.

On 17th of August, 1989, rule was issued, but interim relief was not granted by observing that respondents Nos. 2 to 9 were already appointed.

Mr. Hardik Rawal for the respondent-Corporation. No affidavit is filed on behalf of the Corporation. Para-wise remarks, however, were placed on record duly signed by the Administrative Officer of the S.T. Service

Board dated September 15, 1989, wherein, inter alia, it was mentioned as under :-

"... For recruitment to the post of Divisional Works Supdt. in direct sector, an advertisement was issued by the Administration in the month of January, 1988. In response to this advertisement in all 134 applications were received, out of which 49 candidates who were fulfilling the requisite qualifications for the post of D.W.S. were called for written test/trade test. Out of these 49 candidates, 46 candidates appeared in the written test/trade test. Out of these 46 candidates, 29 candidates secured 50% or more marks in the written test/trade test and hence they were called before the Selection Committee for interview in the month of January, '89. This Committee was headed by the VC & MD and was assisted by the Dy.G.M. (Gen.), Dy.G.M. (Tech.), C.M.E. and Works Manager. The contention of the petitioner was that the Committee should have selected the candidates on the basis of the marks obtained by them in the written/trade test is not correct. As per Clause-17 of G.S.O. 503 of 1959, candidates passing the written or trade test are to be called for interview before the Services Board or the Selection Committee as the case may be. This clause amply makes clear that mere passing of written test/trade test does not qualify any candidate for automatic selection for appointment to any post. Further, it may be stated that the Corporation vide its Resl.No.7132 dated 12/12/88 appointed a Committee under the Chairmanship of the V.C. & M.D. with the assistance of the Dy.G.Ms. and departmental Head concerned to select candidates in supervisory cadre and Class-II posts. Accordingly, the post of D.W.S. being a Class-II post, the Committee as mentioned above interviewed 28 candidates (out of 29) who appeared before them in the month of January, 1989 and having regard to the performance, the Committee recommended to the Services Board the names of 15 candidates for selection to the post of D.W.S. in Class-II (Jr) cadre

on M.E. side in direct sector in order of
the priority ranking given by the Committee
.... "

From the above observations, it is clear that on the basis of the policy decision and Resolution referred therein, the matter was considered and selection was made by the Selection Committee. It was thereafter placed before the Services Board for approval, which was also approved. On the basis of the said decision, appointments were made. It was further mentioned that the Committee consisted of several members, including Experts such as Dy.G.M. (Tech), C.M.E. and Works Manager. It, therefore, could not be said that with a view to favouring respondents 2 to 9, the Committee has taken decision, ignoring the legitimate claims of the petitioners.

Since I do not find any reason to interfere with the process undertaken by the Corporation and there is no arbitrary element in making such selection, the grievance of the petitioners cannot be said to be well-founded. The petition, therefore, deserves to be dismissed and it is accordingly dismissed. Rule is discharged. No order as to costs.

11th April, 2000 (C.K. Thakkar, J.)

(apj)